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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,180	06/25/2003	John Faucher	871.0112.U1(US)	5218

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EXAMINER

HOLLIDAY, JAIME MICHELE

ART UNIT	PAPER NUMBER
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2617

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/607,180	Applicant(s) FAUCHER ET AL.	
	Examiner Jaime M. Holliday	Art Unit 2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on September 2, 2003 has been considered by the Examiner and made of record in the application file.

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Emergency response system with personal emergency device.

Claim Rejections - 35 USC § 112

3. **Claims 8, 12-16 and 18-22** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. **Claim 8** recites the limitation "said stored data" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.
5. **Claims 12-16 and 18-22** recite the limitation "a system" in line 1. There is insufficient antecedent basis for this limitation in the claim. Therefore, the examiner will read "a system" as

Art Unit: 2684

“an apparatus” for claims 12-16, and as “an article of manufacture comprising a program medium readable by a computing device in a mobile telephone handset” for claims 18-22.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1, 11, and 17** are rejected under 35 U.S.C. 102(e) as being anticipated by **Menard (Pub # U.S. 2003/0001743 A1)**.

Consider **claims 1, 11 and 17**, Menard clearly shows and discloses a personal device **100** carried on the person of the victim **V**. The victim undergoes some sort of cardiac problem, such as tachycardia, that causes the personal device to attempt to establish communication with a caregiver. While this is going on, a bystander **B** attempts to give aid to the victim. The bystander is carrying on his person a personal wireless device **600**, for example, a cell phone. When the personal device attempts to establish communication, it sets up communication with the personal wireless device by local area wireless **330**, for example. Next, the personal device may request the personal wireless device to establish a connection to the dispatcher or medical caregiver **D**, using network based communications **360**. Using network based communications, the personal wireless device establishes a connection to the computer of the dispatcher or medical caregiver,

Art Unit: 2684

reading on the claimed “system, apparatus, and article of manufacture comprising a program storage medium readable by a computing device in a mobile telephone handset for contacting help comprising: an emergency device carried on the person of a user, said emergency device having a wireless sending unit activated by an activation unit; a mobile telephone having a wireless receiving unit adapted to receive signals from said wireless sending unit, said mobile telephone being adapted for communicating with a telephone network to call an emergency number; in which said emergency device sends a signal to said mobile telephone in response to the activation of said wireless sending unit; and said mobile telephone calls said emergency number in response to said signal,” (paragraphs 98-100).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. **Claims 2, 5, 6, 12, 15, 16, 18, 21 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Menard (Pub # U.S. 2003/0001743 A1)** in view of **Tognazzini (U.S. Patent # 5,914,675)**.

Consider **claims 2, 12 and 18**, and as applied to **claims 1, 11 and 17** above, respectively, Menard clearly shows and discloses the claimed invention except that data is sent from the personal device to the cell phone containing information.

In the same field of endeavor, Tognazzini clearly shows and discloses a portable emergency locator device that includes a GPS receiver generating location data and a wireless telephone transceiver for transmitting the location data as digital data to a called station during a two-way voice conversation via a wireless telephone network. Upon the detection of an event, a control processor of the portable emergency locator device determines if the detected event is an emergency trigger, and if so, stored GPS data is accessed from memory. The control processor accesses a predetermined number of a rescue station, and initiates a telephone call with the wireless telephone network. After the wireless network has established a communication link between the emergency

device and the called station, the control processor transmits the accessed GPS data, reading on the claimed “signal includes data selected from the group comprising medical information, location and contact information,” (abstract, col. 7 lines 42-65).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the location of an emergency device when signaling rescue as taught by Tognazzini in the system of Menard, in order to provide communication between users or patients and rescue or their caregivers.

Consider **claims 5, 15 and 21**, and **as applied to claims 1, 11 and 17** above, respectively, Menard clearly shows and discloses the claimed invention except that the cell phone includes a way to locate the victim.

In the same field of endeavor, Tognazzini clearly shows and discloses a portable emergency locator device that may be implemented as a hand-held device. The emergency locator device includes a wireless receiver interface, such as a GPS interface that receives digital location data indicating a current location from a wireless location data receiver, reading on the claimed “mobile telephone includes means for estimating the location of the user,” (col. 4 lines 3-25).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow the emergency device to determine its location as taught by Tognazzini in the system of Menard, in order to provide effective communication between users or patients and rescue or their caregivers during an emergency situation.

Consider **claims 6, 16 and 22**, Menard, as modified by Tognazzini, clearly shows and discloses the claimed invention **as applied to claims 5, 15 and 21**, and in addition, Tognazzini further discloses that the receiver is preferably a GPS receiver that receives wireless location data from a wireless location detection system such as the global positioning system (GPS), reading on the claimed “means for estimating the location of the user comprises a GPS receiver,” (col. 4 lines 3-29).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow the emergency device to determine its location as taught by Tognazzini in the system of Menard, in order to provide effective communication between users or patients and rescue or their caregivers during an emergency situation.

9. **Claims 3, 13, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Menard (Pub # U.S. 2003/0001743 A1)** in view of **Luman (U.S. Patent # 6,445,300 B1)**.

Consider **claims 3, 13 and 19**, and **as applied to claims 1, 11 and 17** above, respectively, Menard clearly shows and discloses the claimed invention except that the personal emergency device stores data such as the prior health conditions and allergies of the victim.

In the same field of endeavor, Luman clearly shows and discloses a small, wireless transmitter which contains important, personal information, such as the user's name, address, current medications, allergies, contact information and the like. When a user encounters a distress situation, the transmitter transmits a signal, and interacts with

emergency personnel. When the user becomes incapacitated, emergency personnel downloads personal information such as the user's name, address, contact persons, medical condition, allergies and physician, reading on the claimed "emergency device includes stored data on the user's prior medical conditions and any allergies to medication," (abstract, col. 1 lines 50-60, col. 3 lines 13-50).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow the emergency device transmit the users personal information as taught by Luman in the system of Menard, in order to provide effective communication between users or patients and rescue or their caregivers during an emergency situation.

10. **Claims 4, 14 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Menard (Pub # U.S. 2003/0001743 A1)** in view of **Tognazzini (U.S. Patent # 5,914,675)**, and in further view of **Luman (U.S. Patent # 6,445,300 B1)**.

Consider **claims 4, 14 and 20**, and as applied to **claims 2, 12 and 18** above, respectively, Menard, as modified by Tognazzini, clearly shows and discloses the claimed invention except that the personal emergency device stores data such as the prior health conditions and allergies of the victim.

In the same field of endeavor, Luman clearly shows and discloses a small, wireless transmitter which contains important, personal information, such as the user's name, address, current medications, allergies, contact information and the like. When a user encounters a distress situation, the transmitter transmits a signal, and interacts with

emergency personnel. When the user becomes incapacitated, emergency personnel downloads personal information such as the user's name, address, contact persons, medical condition, allergies and physician, reading on the claimed "emergency device includes stored data on the user's prior medical conditions and any allergies to medication," (abstract, col. 1 lines 50-60, col. 3 lines 13-50).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow the emergency device transmit the users personal information as taught by Luman in the system of Menard, as modified by Tognazzini, in order to provide effective communication between users or patients and rescue or their caregivers during an emergency situation.

11. **Claims 7-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Menard (Pub # U.S. 2003/0001743 A1)** in view of **Balachandran (U.S. Patent # 6,073,004)**.

Consider **claim 7**, and as applied to **claim 1** above, Menard clearly show and disclose the claimed invention except that cell phone invokes response from the network.

In the same field of endeavor, Balachandran clearly shows and discloses a system and method for enabling emergency call initiations in response to the detection of a vehicle accident. When an activation signal is sent from a sensor, a call is setup between a cellular telephone 15 and a base station 60, which forwards the emergency call setup request to the mobile switching center (MSC) responsible for controlling the cellular telephone. The MSC, then contacts the (home location register) HLR for the requesting cellular telephone, reading on the claimed "mobile telephone sends a signal to a

telephone network activating a response from the telephone network,” (abstract, col. 3 lines 7-28).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the communication network respond to the emergency call set up as taught by Luman in the system of Menard, in order to provide effective and timely communication between users or patients and rescue or their caregivers during an emergency situation.

Consider **claim 8**, Menard, as modified by Balachandran, clearly shows and discloses the claimed invention **as applied to claim 7** above, and in addition, Balachandran further discloses a database **68** within the subscriber account information for the cellular telephone that stores a variety of emergency information associated with the subscriber of the cellular telephone unit. This emergency information is forwarded to the MSC controlling the cellular telephone. The emergency information is then forwarded to an emergency operator, for example, a 911 operator, reading on the claimed “response from the telephone network comprises at least receiving said stored data and transmitting the stored data to the emergency number,” (col. 3 lines 27-46).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the communication network respond to the emergency call set up and forward it to 911 as taught by Balachandran in the system of Menard, in order to provide effective and timely communication between users or patients and rescue or their caregivers during an emergency situation.

Consider **claim 9**, Menard, as modified by Balachandran, clearly shows and discloses the claimed invention **as applied to claim 7** above, and in addition, Balachandran further discloses that the MSC contacts the base station to request location information for the cellular telephone, reading on the claimed “the response from the telephone network includes estimating the location of the user by analyzing signals from the mobile telephone,” (col. 3 lines 42-43). It is known in the art the various ways in which the serving base station locates a mobile telephone.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the communication network locate the cellular telephone as taught by Balachandran in the system of Menard, in order to provide effective and timely communication between users or patients and rescue or their caregivers during an emergency situation.

Consider **claim 10**, Menard, as modified by Balachandran, clearly shows and discloses the claimed invention **as applied to claim 8** above, and in addition, Balachandran further discloses that the MSC contacts the base station to request location information for the cellular telephone, reading on the claimed “the response from the telephone network includes estimating the location of the user by analyzing signals from the mobile telephone,” (col. 3 lines 42-43). It is known in the art the various ways in which the serving base station locates a mobile telephone.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the communication network locate the cellular telephone as taught by Balachandran in the system of Menard, in order to provide

Art Unit: 2684

effective and timely communication between users or patients and rescue or their caregivers during an emergency situation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaime M. Holliday whose telephone number is (571) 272-8618.

The examiner can normally be reached on Monday through Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jaime Holliday

Patent Examiner


NICK CORSARO
PRIMARY EXAMINER